

Bar Association for Commerce, Finance and Industry



RESPONSE TO BAR COUNCIL'S CONSULTATION PAPER ON QUALITY

The Bar Association for Commerce, Finance and Industry ("BACFI"), which was founded in 1965, represents members of the bar who work in-house or provide legal services outside chambers.

BACFI is keen to play its part as a representative organisation in helping shape the development of the bar of England and Wales, by bringing forward the views of its members and pressing for appropriate change. BACFI actively supports the objective of an independent and high quality bar, accessible to all and supports Continuing Professional Development for all its practising members.

This Response deals with Part 1 of the Consultation Paper on Quality relating to **Continuing advocacy training for the 4-6 year cohort.**

We understand that the Bar Council has not yet decided whether these proposals for further advocacy training should apply to all employed barristers. We assume that such training would be related to courtroom advocacy. On this basis, BACFI would respectfully suggest that it is not appropriate to apply the requirement to those employed barristers who do not undertake court advocacy. We have seen the paper which the Employed Barristers Committee of the Bar Council has submitted on advocacy training generally for the employed bar and we largely agree with their Summary. We would however like to add the following comments:

1. Generally at the Employed Bar (apart from the CPS) there is little requirement for court advocacy. In-house counsel are much more likely to

instruct specialist advocates at the self-employed bar than consider appearing in the courts themselves.

2. Employed barristers working for companies are likely to be subject to “quality control” by their employers and many will have training plans tailored to the type of work they are required to carry out. If they are required to carry out any court advocacy, then any poor performance will affect the company and its economic interests and the company will take steps to remedy the matter.

3. As has been pointed out by the employed bar on many occasions, employed barristers are required to have excellent advocacy skills beyond the courtroom. The Dutton definition of advocacy recognises this broader definition. Legal department training programmes will address the need for written and oral skills to be developed according to the needs of the company and the individual. A prescribed course tailored only to the self-employed bar will be of little value to those barristers.

4. One argument in favour of continuing advocacy training for all practising barristers has been that if an employed barrister moves to the self-employed bar then he or she might be required to appear in court. We would suggest that it would be more effective to require additional court advocacy training at that time rather than to rely on training which might have been undertaken many years before.

5. While we subscribe fully to the concept of “One Bar” we do feel that different activities within the profession should be recognised. Other professions such as the medical profession, recognise that their members will specialise in different fields after their basic training and do not require them to carry out CPD in a field in which they are not practising.

6. The Bar Council is keen to encourage more employers to become PTOs. This can only happen if the Bar recognises the employment environment as being different to chambers and with different methods of quality control. It may harm employment prospects for barristers if employers feel that the profession is insisting on types of CPD which are not appropriate for the individual or the company.

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We should make clear than this Response deals only with the proposals to require advocacy training for the 4-6 year cohort. We make no comment on the NPP programme or the CPD requirements generally both of which may present different problems. We should also make clear that BACFI supports the concept of Continuing Professional Development for employed barristers. We have offered to assist the Bar Council and now the Bar Standards Board to develop CPD rules which will ensure the most appropriate training for the work performed by its members.

BACFI
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